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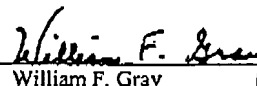
Appl. No.: 10/720,702 Confirmation No. 5379
Applicant(s): Dumas, et al.
Filed: 11/24/2003
TC/A.U.: 1621
Examiner: O'Sullivan, Peter G.

Docket No.: 5052D1
Customer No.: 35969

CERTIFICATION OF TRANSMISSION UNDER 37 C.F.R. 1.8

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Date: 15 May 2007

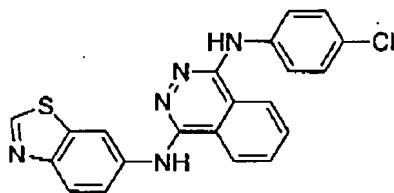

William F. Gray

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated 12/15/2006. In response to the restriction requirement, applicants elect the claims of restriction group II for further prosecution in this application. Applicants further elect the species of example 105, which has the structure



Traversal of the restriction requirement

In making the present restriction requirement, it appears that the examiner has not understood the claims of this application, or their interrelationships, or the prosecution which occurred in the parent application, serial no. 09/672,294. As a result, several of the defined restriction groups do not make sense. The examiner is requested to vacate the present restriction requirement and reconsider how to restrict, or to revise the present restriction requirement appropriately.

Restriction group I is defined as claims 1-3, 6-8, 11-13, and 16, drawn to compounds in which Z is N and R¹ and R² of the formula are defined as shown in "case iv". Applicants point out that this definition does not read on claims 1-3 because claims 1-3 do not include "case iv" as part of the definition of R¹ and R². This definition also does not read on claims 11-13 because claims 11-13 require that Z is CR⁴. Thus, the definition of restriction group I only covers claims 6-8 and 16 (in part).

Restriction group II is defined as claims 6-8, 11-13, and 16, drawn to compounds in which Z is N and R¹ and R² of the formula are defined as shown in "cases i, ii, or iii". Applicants point out that this definition does not read on claims 11-13 because claims 11-13 require that Z is CR⁴. Thus the definition of restriction group II only covers claims 6-8 and 16 (in part).

Restriction group III is defined as claims 6-8, 11-13, and 16, drawn to compounds in which Z is N and R¹ and R² of the formula are defined as shown in "case v". Applicants point out that this definition does not read on claims 11-13 because claims 11-13 require that Z is CR⁴. Furthermore, the definition also reads on claims 1-3, which are not part of the restriction group definition.

Restriction group IV is defined as claims 1-3, 6-8, 11-13, and 16, drawn to compounds in which Z is carbon and R¹ and R² of the formula are defined as shown in "case iv". Applicants point out that this definition does not read on claims 1-3 because claims 1-3 do not include "case iv" as part of the definition of R¹ and R². Thus, the definition of restriction group IV only covers claims 6-8, 11-13, and 16 (in part).

Restriction group V is defined as claims 6-8, 11-13, and 16, drawn to compounds in which Z is carbon and R¹ and R² of the formula are defined as shown in "cases i, ii, or iii". This definition does read on the listed claims, although claim 16 should be recited as claim 16 (in part).

Restriction group VI is defined as claims 6-8, 11-13, and 16, drawn to compounds in which Z is carbon and R¹ and R² of the formula are defined as shown in "case v". This definition applies to the listed claims (noting that claim 16 should be recited as claim 16 (in part)). However, the definition of the restriction group also reads on claims 1-3.

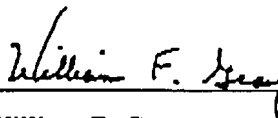
Applicants do not discuss the definitions of restriction groups VII through X in this paper, as these appear to be mostly correct.

Applicants believe that the examiner's confusion resulted from the length and complexity of the present claims, and the failure to understand how the broad generic claims 1, 6, and 11 stand in relation to each other (they are partially overlapping, as explained on page 4 of the specification). Nevertheless, if the examiner wishes to impose a restriction requirement, he is obliged to define independent and distinct inventions while not losing claimed subject matter. He has failed to do this.

As a result of the inaccuracies in drafting the definitions of the several restriction groups, the claimed subject matter is not separated cleanly into discrete independent units as the examiner intended to do, and portions of the originally-claimed subject matter are excluded from the scope of the application. Accordingly, it is deemed proper for the applicants to request that the examiner reconsider and rewrite or revise the restriction requirement appropriately.

The undersigned attorney invites the examiner to call him to discuss how the broad generic claims are written to avoid the art while retaining breadth, and how a proper restriction requirement might be structured.

Respectfully submitted,

A handwritten signature in cursive script, reading "William F. Gray", is positioned above a horizontal line.

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